



General Assembly

Substitute Bill No. 362

January Session, 2009

* SB00362LAB__030409__ *

AN ACT CONCERNING EQUAL PAY FOR EQUAL WORK.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-75 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) No employer shall discriminate in the amount of compensation
4 paid to any employee solely on the basis of sex. Any difference in pay
5 based on sex shall be deemed a discrimination within the meaning of
6 this section. [provided nothing herein shall be deemed to prevent the
7 operation of employment practices which recognize length of service
8 or merit rating as a factor in determining wage or salary rates.]

9 (b) As used in this subsection, "equal work" means work performed
10 by two or more employees that requires equal skill, effort and
11 responsibility and is performed under similar working conditions. An
12 employee establishes a prima facie claim of discrimination under this
13 section, if the employee demonstrates that his or her employer
14 discriminates on the basis of sex by paying wages to employees at the
15 employer's business at a rate less than the rate at which the employer
16 pays wages to employees of the opposite sex at such business for equal
17 work. It shall be a defense to a claim of discrimination under this
18 section that a differential in pay for equal work is made pursuant to (1)
19 a seniority system; (2) a merit system; (3) a system which measures
20 earnings by quantity or quality of production; or (4) a differential

21 system based upon a bona fide factor other than sex, such as education
22 training or experience. Said bona fide factor defense shall apply only if
23 the employer demonstrates that such factor (A) is not based upon or
24 derived from a sex-based differential in compensation, and (B) is job-
25 related and consistent with business necessity. Such defense shall not
26 exist where the employee demonstrates that an alternative
27 employment practice exists that would serve the same business
28 purpose without producing such differential and that the employer
29 has refused to adopt such alternative practice.

30 (c) No employer shall discharge, expel or otherwise discriminate
31 against any person because such person has opposed any
32 discriminatory compensation practice or because such person has filed
33 a complaint or testified or assisted in any proceeding pursuant to
34 section 31-76, as amended by this act.

35 Sec. 2. Section 31-76 of the general statutes is repealed and the
36 following is substituted in lieu thereof (*Effective October 1, 2009*):

37 (a) The Labor Commissioner shall carry out the provisions of section
38 31-75, as amended by this act, either upon complaint or upon [his] the
39 commissioner's own motion. For this purpose, the commissioner, or
40 [his] the commissioner's authorized representative, may enter places of
41 employment, inspect payrolls, investigate work and operations on
42 which employees are engaged, question employees and take such
43 action as is reasonably necessary to determine compliance with section
44 31-75, as amended by this act. [Any] At the request of any employee
45 who has received less than the wage to which the employee is entitled
46 under section 31-75, as amended by this act, the commissioner may
47 take an assignment of such wage claim in trust and may bring any
48 legal action necessary to collect such claim. In any action brought by
49 the commissioner, the employer who violates the provisions of section
50 31-75, as amended by this act, [shall be] may be found liable to the
51 employee or the employees affected for the difference between the
52 amount of wages paid and the maximum wage paid any other
53 employee for equal work, compensatory damages and punitive

54 damages if the violation is found to be intentional or committed with
55 reckless indifference to the employee's or employees' rights under
56 section 31-75, as amended by this act. [Action to recover such
57 difference may be maintained in any court of competent jurisdiction by
58 any one or more employees.] Any agreement to work for less than the
59 wage to which such employee is entitled under section 31-75, as
60 amended by this act, shall not be a defense to such action. [At the
61 request of any employee who has received less than the wage to which
62 he is entitled under section 31-75, the commissioner may take an
63 assignment of such wage claim in trust and may bring any legal action
64 necessary to collect such claim. If judgment is rendered against an
65 employer in any civil action brought to collect wages under the
66 provisions of this section, the employer shall be required to pay the
67 taxable costs and such reasonable attorney's fees as may be allowed by
68 the court.]

69 (b) Unless and except to the extent that a wage claim has been
70 assigned to the commissioner pursuant to subsection (a) of this section,
71 an action to redress a violation of section 31-75, as amended by this act,
72 may be maintained in any court of competent jurisdiction by any one
73 or more employees. Any agreement to work for less than the wage to
74 which such employee is entitled under section 31-75, as amended by
75 this act, shall not be a defense to such action. An employer who
76 violates section 31-75, as amended by this act, may be found liable for
77 the difference between the amount of wages paid and the maximum
78 wage paid any other employee for equal work, compensatory
79 damages, attorney's fees and costs, punitive damages if the violation is
80 found to be intentional or committed with reckless indifference to the
81 employee's or employees' rights under section 31-75, as amended by
82 this act, and such legal and equitable relief as the court deems just and
83 proper.

84 (c) For purposes of this section, discrimination in compensation
85 under section 31-75, as amended by this act, occurs when a
86 discriminatory compensation decision is practiced or adopted, when
87 an individual becomes subject to a discriminatory compensation

88 decision or practice, or when an individual is affected by application of
 89 a discriminatory compensation decision or practice, and shall be
 90 deemed to be a continuing violation each time wages, benefits or other
 91 compensation is paid, resulting in whole or in part from such a
 92 decision or other practice.

93 (d) No action shall be brought [or any prosecution instituted] for
 94 any violation of section 31-75, as amended by this act, [unless within
 95 one year after the commission of the act complained of. Any person
 96 who violates section 31-75 or any employer who discriminates in any
 97 manner against any employee because such employee has filed a
 98 complaint or taken any other action as herein provided shall, upon
 99 conviction, be fined for each violation not more than two hundred
 100 dollars] except within two years of such violation or any act described
 101 in subsection (c) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	31-75
Sec. 2	October 1, 2009	31-76

Statement of Legislative Commissioners:

In subsection (b) of section 2, an incorrect statutory reference was changed in the second line and "reckless indifferent" was changed to "reckless indifference" for proper grammatical usage.

LAB *Joint Favorable Subst.*